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**LAURI VALJAKKA**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

LAURI VALJAKKA,

Plaintiff,

V.

## NETFLIX, INC.,

Defendant.

Case No. 4:22-CV-01490-JST

**PLAINTIFF'S OPPOSITION TO  
DEFENDANT NETFLIX'S MOTION  
TO SHORTEN TIME TO HEAR THE  
MOTION FOR A PRELIMINARY  
INJUNCTION, THE MOTION TO  
AMEND THE SCHEDULING ORDER,  
AND THE MOTION TO AMEND TO ADD  
A COUNTERCLAIM**

[L.R. 6-3]

Judge: Hon. Jon S. Tigar  
Courtroom 6 – 2nd Floor

1 Defendant Netflix, Inc.’s (“Netflix”) Motion to Shorten Time To Hear The Motion For A  
 2 Preliminary Injunction, The Motion To Amend The Scheduling Order, And The Motion To  
 3 Amend To Add A Counterclaim (“Motion”, ECF 130) should be denied. Netflix has not shown  
 4 any urgency or other good cause for why the motions should be heard on a date earlier than the  
 5 noticed hearing date of October 19, 2023. This is particularly true because Netflix’s Motion is  
 6 supported by a declaration that attempts to explain the need for an earlier hearing date for its three  
 7 groundless and improper motions by conclusory statements and speculation.  
 8

9 **I. BACKGROUND AND STATEMENT OF FACTS**

10 On September 13, 2021 Plaintiff Lauri Valjakka (“Valjakka”) filed his original complaint for  
 11 patent infringement against Defendant Netflix. The case has been vigorously litigated since then,  
 12 with the parties exchanging written discovery and producing thousands of documents, taking  
 13 depositions, amending pleadings, and briefing motions. Most recently, the parties jointly stipulated  
 14 to amend the scheduling order governing the case, extending the deadline for Netflix’s Rebuttal  
 15 Damages Report and establishing a briefing schedule for cross motions for summary judgment (ECF  
 16 131). Fact discovery has closed. Expert discovery will close on September 8, 2023, and Netflix’s  
 17 summary judgment motion deadline is September 15, 2023 (ECF 131). In addition, on August 22,  
 18 2023 this Court denied Netflix’s motion for judgment on the pleadings with respect to U.S. Patent  
 19 No. 8,495,167 (“the ‘167 Patent”) (ECF 132).

20 With the expert discovery period closing in two weeks, and with its deadline to file dispositive  
 21 motions approaching a week later, on August 21, 2023 Netflix filed three motions – 1) a motion for  
 22 preliminary injunction to enjoin Valjakka from any “transfer” of “Enforcement Assets” he owns to  
 23 an entity over which he maintains control (ECF 127); 2) a motion to add a new counterclaim for  
 24 violation of the California Uniform Voidable Transactions Act (“CUTVA”), Cal. Civ. Code § 3429  
*et. seq* (ECF 128); and 3) a motion to amend the scheduling order to reopen discovery in order to  
 25 take discovery, including six hours of additional depositions, on its newly-asserted CUTVA claim  
 26 (ECF 129).

27 Based on Netflix’s filing its three motions on August 21, 2023, under this Court’s Civil Local  
 28

1 Rule 7-2(a) and this Court's Scheduling Notes, the earliest date for hearing on Netflix's motions  
 2 would have been September 28, 2023 (ECF 130-1, ¶ 7). However, Netflix noticed the hearing on its  
 3 three motions for October 19, 2023, which its counsel attests was the first available date the Court  
 4 had on its schedule to hear them (ECF 130-1, ¶ 7).

5 Netflix requests that the Court set a hearing on its three underlying motions on a date earlier  
 6 than the noticed October 19, 2023, and preferably on September 14, 2023 (ECF 130, at 1:4-5).

7  
 8 Netflix's Motion fails to demonstrate any legitimate reason urgency for scheduling an earlier  
 9 hearing date than that available on the Court's schedule.

10 **II. ARGUMENT**

11 Netflix's motion to advance the hearing date, a form of a motion to shorten time for hearing,  
 12 requires a showing of good cause. *WeRide Corp. v. Kun Huang*, No. 18-7233-EJD, 2019 U.S. Dist.  
 13 LEXIS 130781, at \*7 (N.D. Cal. Aug. 5, 2019); see also Civil L.R. 6-3. "An order shortening time  
 14 on a motion necessarily delays resolution of other matters pending before the court." *Belinda K. v.*  
 15 *Baldovinos*, 2011 WL 335315, \*2 (N.D. Cal. Feb. 1, 2011); *Warner Bros. Entm't Inc. v. Random*  
 16 *Tuesday, Inc.*, No. CV 20-2416-SB (PLAx), 2022 U.S. Dist. LEXIS 20908, at \*8 (C.D. Cal. Jan.  
 17 26, 2022), citing *Mission Power Eng'g Co. v. Continental Cas. Co.*, 883 F. Supp. 488, 492 (C.D.  
 18 Cal. 1995) (party moving to shorten time must show that it "should be allowed to go to the head of  
 19 the line in front of all other litigants and receive special treatment.")

20 "Because a motion for such an order is effectively a request to jump the line, good cause is  
 21 required." *Id.* (citing Fed. R. Civ. P. 6(c)(1)(C)). As Netflix acknowledges, the moving party must  
 22 identify "the *substantial* harm or prejudice that would occur if the Court did not change the time"  
 23 and set forth "with particularity, the reasons for the requested enlargement or shortening of time."  
 24 Civ. L.R. 6-3(a)(3) (emphasis added). Netflix fails to show the requisite good cause here.

25 Netflix's first argument that an earlier hearing date than the October 19, 2023 noticed date  
 26 is warranted is that "Netflix would be forced to wait for nearly two months for a hearing on the  
 27 relief requested in the Motions" (ECF 130-1, ¶ 8). Given that under this Court's Civil Local Rule  
 28

1 7-2(a) a movant would have to wait for at least 35 days for a hearing on a noticed motion, Netflix’s  
 2 proffered argument is nothing more than inconvenience. Simply having to wait a bit longer is not  
 3 by itself the type of “substantial harm” that would allow a moving party to jump to the head of the  
 4 line.

5 Second, Netflix’s purported justification for advancing the hearing date on the underlying  
 6 motions to amend its answer and counterclaim and its motion to reopen discovery also fails. As to  
 7 its motion to amend the scheduling order to reopen discovery in order to take discovery, including  
 8 six hours of additional depositions, on its newly-asserted CUTVA claim (ECF 129), Netflix’s argues  
 9 that it wants to ensure that its claim will be ready to be presented at the trial (ECF 130-1, ¶ 10).  
 10 Netflix fails to explain why it would not be able to do so if its motion to amend is granted on October  
 11 19, 2023 (assuming *arguendo* that it is granted). As to its motion to amend its Answer to add a  
 12 counterclaim for CUTVA (ECF 128), Netflix advances no other reason than having to wait, as why  
 13 holding a hearing on October 19, 2023 constitutes substantial harm or prejudice.<sup>1</sup>

14 Next, Netflix has not offered any admissible evidence that supports or would support  
 15 advancing or specially setting a hearing on the preliminary injunction. Netflix advances only  
 16 conclusory and speculative assertions that it is “concerned” that “Absent a timely injunction to  
 17 enjoin Valjakka’s fraudulent transfer, then Netflix’s ability to collect on its protectable claim could  
 18 be forever extinguished. . . .” (ECF 130-1, ¶ 9). Netflix further bases its request to shorten time for  
 19 the hearing on unsubstantiated claims that Valjakka has a “history of flouting court rules designed  
 20 to ensure the transparent exchange of information relevant to a dispute, his demonstrated efforts to  
 21 put assets beyond the reach of creditors, and his abuse of the bankruptcy system to further shield  
 22 assets and perpetuate a shell game of entities” (Motion at 2:14-17; ECF 130-1, ¶ 9). That kind of  
 23 speculation and conjecture cannot show any cognizable harm or prejudice to justify Netflix’s

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24  
 1 Furthermore, as set forth below, Netflix’s proposed CUTVA claim is frivolous. A CUTVA claim  
 2 does not apply to a transfer where, as here, the transaction at issue is by Valjakka “from himself to  
 3 himself” (ECF 127, at 6.). Rather, CUTVA only applies to transactions between two separate and  
 4 distinct parties, that puts the transferred property out of reach of a creditor. *Opperman v. Path, Inc.*,  
 5 87 F. Supp. 3d 1018 (N.D. Cal. 2014), citing *Mehrtash v. Mehrtash*, 93 Cal.App.4th 75, 80 (2001);  
 6 *Lo v. Lee*, 24 Cal. App. 5th 1065 (2018), citing *Yaezu Electronics Corp. v. Tamura* 28 Cal.App.4th  
 7 8, 13 (1994).

1 motion, let alone anything “substantial” that would warrant disturbing or changing the current  
 2 hearing schedule. Civil L.R. 6-3(a)(3).

3 Moreover, Netflix’s “concerns” are unfounded. As the preliminary injunction motion  
 4 itself demonstrates, if Netflix is relying on Valjakka’s purported grant of rights related to the  
 5 patents at issue to an entity named CDN Licensing, or to an entity named IPRA Technologies,  
 6 then is concern is unfounded because, as Netflix argues, Valjakka “owns” CDN (ECF 127, at 1:6-  
 7 8, 3:17) and IPRA (ECF 127, 3:17). A transfer between Valjakka and an entity he owns disregards  
 8 the fact that Valjakka’s re-organization of his own personal assets has no effect on Netflix’s  
 9 potential right to future recovery in the event that Netflix ultimately prevails on a contingent claim  
 10 to attorney fees. Furthermore, the motion for preliminary injunction is futile to the extent that the  
 11 transaction between Valjakka and CDN *already occurred* in 2021 (ECF 127 at 3:3-4).  
 12 Accordingly, there is no exigency that warrants hearing the motion for preliminary injunction on  
 13 shortened time.

14 Finally, advancing the hearing to September 14, 2023 would not serve the interests of justice.  
 15 The Court, of course, is more fully informed of the competing demands on its time than are counsel  
 16 for the parties. A review of this Court’s calendar, as published on the Courts website, however,  
 17 reveals that those competing demands are substantial. Netflix’s proposed schedule would provide  
 18 the Court with only seven days after the close of briefing to consider the three motions that will then  
 19 be before it. Given the issues raised in the three motions, and the arguments and evidence that will  
 20 be submitted with Valjakka’s oppositions to each motion (and with Netflix’s replies), Netflix’s  
 21 proposed order shortening time seeks to deprive the Court of the fair and reasonable time period  
 22 required to review, evaluate and adjudicate the arguments presented by the parties in their respective  
 23 briefing and at oral argument.<sup>2</sup>

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<sup>2</sup> Furthermore, Netflix’s three motions were heard on September 14, 2023, given the Court’s  
 schedule on and after that date, Netflix cannot be certain that the Court would have sufficient time  
 to issue orders on the motions any earlier than the Court’s schedule might allow had the motions  
 been heard as noticed.

1                   **III. CONCLUSION**

2                   For the reasons set forth above, Netflix's Motion to Shorten Time for Hearing should be  
3                   denied. The hearing on its Motion For A Preliminary Injunction, The Motion To Amend The  
4                   Scheduling Order, And The Motion To Amend To Add A Counterclaim should remain as noticed,  
5                   with the hearing to be held on October 19, 2023.

6                   DATED: August 25, 2023

7                   Respectfully submitted,

8                   RAMEY LLP

9                   By: /s/ Susan S.Q. Kalra

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